

REMARKS

In response to the pending Office Action of October 23, 2002, a terminal disclaimer to obviate a double patenting rejection over prior U.S. Patent No. 5,935,862 being submitted herewith.

Claim 12 has been cancelled.

Reconsideration and clarification is requested of the pending rejection of claims 13 through 16 under 35 U.S.C. 102(b) as being clearly anticipated by Tyihak. In a previous Amendment it was argued that, as understood, Tyihak discloses a linear overpressurized thin-layer chromatographic apparatus where capillary tubes 6 and 7 are connected to a sorbent layer plate 1. The samples are fed into the apparatus containing the sorbent layer by overpressure applied to the capillary tube, column 4, lines 49-55. Further, the analyte does not appear to remain at the place of deposition, but appears to migrate across the sorbent plate under pressure. With reference to the prosecution of U.S. Patent No. 5,935,862, it was pointed out that the invention is not determining the presence of analytes, such as chemical warfare agents, by thin layer chromatography (TLC) methods. Instead, applicants are using a plate coated with a thin layer of sorbent, chromatographic material that has been marketed for use in performing TLC experiments. The coated plate is used as a solid support for collecting the analyte in a small spot and as a medium for performing a chromatography detection reaction that detects the presence of the analyte at the small spot. The analyte remains in a small spot on a solid support, such as the TLC plate, when a solution of the analyte is applied to the solid support by capillary deposition using tubes with microcapillary sized openings. The analyte is then

RECEIVED
MAR 03 2003
GROUP 1700

detected by a chromogenic detector reagent. This is dissimilar from the migration disclosed in Tyihak.

In performing thin layer chromatography (TLC) experiments, the analyte is eluted with an eluant (i.e., a solvent or mixtures of solvents), which results in the sample migrating and separating into distinct spots, where the number of spots depends upon the number of analytes/components in the sample. Diffusion occurs as the components migrate up the TLC plate. Therefore, the method of the present invention is not thin layer chromatography (TLC), and can best be described as the opposite of TLC or a non-TLC procedure. This distinction is discussed, for example, in page 3 of the present application. In TLC, components of the analytes separate, but with the present invention components of the analyte do not separate but are concentrated at a small spot where they are deposited on the plate by capillary action. Migration of the analyte on the TLC plate is contrary to optimization of the results of the present invention.

Claims 17-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tyihak. Reconsideration of this rejection is requested. For example, claims 17 and 18 include limitations about the size of the microcapillary tubes that do not appear to be either taught or suggested by Tyihak. Further, claims 20 through 27 include particular selections of materials that are not either taught or suggested by Tyihak, particularly when noted that the test of Tyihak is different than the present invention, as also presented in related U.S. 6,420,181 issued to the present inventor, Thaddeus Novak.

The drawings were objected to as being informal. It is requested that the requirement for new drawings be withheld until a Notice of Allowance has been issued for this case.

Since all pending claims are considered allowable, this case is considered in condition for allowance.

A one-month extension of the period for response to the rejection of October 23, 2002 has been extended from January 23, 2003 to February 23, 2003 and is being submitted herewith by a separate document.

Any costs incident with the filing of this amendment and the cost of a one month extension should be charged to the U.S. Army Materiel Command, Patent Office deposit account number 19-2201. Any deficiency or overpayment should be charged or credited to this numbered deposit account.

February 24, 2003



William Randolph
Patent Attorney,
Reg. No. 28,986
U.S. Army Materiel Command
5001 Eisenhower Avenue
Alexandria, Va. 22333-0001

Telephone (703) 617-2555



VERSION WITH MARKINGS TO SHOW CHANGES MADE
(U.S. Application Serial No. 09/340,165)

RECEIVED
MAR 03 2003
GROUP 1700

In The Specification: Page 1, paragraph 1 (i.e., lines 4-5) is amended as follows:

This is a Continuation-In-Part of U.S. Application Serial No. 08/763,181, filed December 11, 1996 and now U.S. Patent No. 5,935,862. A co-pending application is U.S. Application Serial No. 09/296,602 filed April 23, 1999 and now U.S. Patent No. 6,420,181.

In The Claims:

Claim 12 has been cancelled.